

EXHIBIT 2  
DATE 4/12/13  
SB 226

**From:** Miller Richard J [<mailto:Richard.J.Miller@irs.gov>]  
**Sent:** Monday, March 18, 2013 1:58 PM  
**To:** Halubka, Tracy  
**Cc:** Sponsler Douglas  
**Subject:** RE: Special Mobile Machinery

Hi Tracy, please see the text below from Doug:

The use of dyed fuel in mobile machinery is prohibited under IRC 4082(b). This portion of the Internal Revenue Code defines "nontaxable use" as it relates to diesel fuel and kerosene. The IRC section specifically states that the term "nontaxable use" does not apply to any use under IRC 6421(e)(2)(C). IRC 6421(e)(2)(C) pertains to mobile machinery.

Thus, mobile machinery vehicle operators must use taxed, undyed fuel in their mobile machinery vehicles. The use of dyed diesel fuel is not permitted.

The mobile machinery operator may claim an excise tax fuel credit for taxed, undyed diesel fuel used in a mobile machinery vehicle if the operator meets design based and use based tests. The tests are described in IRC 6421(e)(2)(C).

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